**Private Letter Ruling**

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| **Ruling Number:** | **P-2004-053** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Microwave equipment and catheters used in treating prostate enlargement.** |
| **Keywords:** |  |
| **Approval Date:** | **10/19/2004** |

**Body:**

Office of Policy & Research

October 19, 2004

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Re: Private Letter Ruling Request

Dear XXXX:

You indicate that your business provides microwave equipment and catheters used in treating prostate enlargement by a urologist, who prescribes the treatment, known as Cooled ThermoTherapy ™. The treatment involves installation of a catheter (which is used only once) in the body through the urethra. Microwave energy is then applied via the catheter to the prostate, heating the diseased areas, so the diseased tissue shrinks, enabling the prostate to resume normal size and function. You have asked whether the microwave equipment and catheters used in this treatment would be exempt from sales tax as “prosthetic devices” under K.S.A. 79-3606(r), which provides:

all sales of prosthetic devices . . . prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry. For the purposes of this subsection: . . . (2) "prosthetic device" means a replacement, corrective or supportive device including repair and replacement parts for same worn on or in the body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction or support a weak or deformed portion of the body.

Please be advised that the purchase of the microwave equipment would not fall within the definition of a “prosthetic device” and would not be exempt from sales tax under K.S.A. 79-3606(r). The catheters, installed in the body and used as described above in the treatment of the enlarged prostate, would qualify as prosthetic devices and purchases thereof would be exempt from sales tax under K.S.A. 79-3606(r).

If you have additional questions, please contact me. This is a private letter ruling and is based solely on the facts provided in your request. If it is determined that undisclosed facts were material or necessary to make an accurate determination by the department, this ruling is null and void. This private letter ruling will be revoked in the future by operation of law without further department action if there is a change in the statutes, administrative regulations, or case law, or a published revenue ruling, that materially affects this private letter ruling.

Very truly yours,

Richard L. Cram

**Date Composed: 10/19/2004 Date Modified: 10/19/2004**